

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)

Amendment of the Commission's Rules)

To Permit Flexible Service Offerings)

in the Commercial Mobile Radio Services)

WT Docket No. 96-6

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COMMENTS OF
SBC COMMUNICATIONS INC.

SBC Communications Inc. ("SBC") files these comments in support of the Commission's tentative conclusion that all Commercial Mobile Radio Service (CMRS) providers should be authorized to offer fixed wireless services.¹ The Commission should allow CMRS providers the flexibility to create new offerings and explore and implement technological innovations without unneeded regulatory analysis and classification of whether the service is "fixed", "ancillary",² "secondary",³ "auxiliary"⁴ or "incidental".⁵ CMRS providers should have the flexibility to use the spectrum however they choose, provided there is no interference, to provide a myriad of wireless services, both mobile and fixed. By granting such flexibility, CMRS providers will be better able to provide services in a manner which best serves what the customer needs rather than what the provider is allowed to offer.

¹See, In the Matter of Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services, WT Docket No. 96-6, Notice of Proposed Rule Making, para. 1 (Released January 25, 1996) ("NPRM").

²See, NPRM, para. 4 & fn. 5. (PCS).

³See, NPRM, para. 4 & fn. 6 and cites therein. (SMR providers)

⁴NPRM, para. 4 & fn. 7 and cites therein. (Cellular).

⁵See, NPRM, para. 4 & fn. 8. (Cellular).

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The radio spectrum is a limited resource and licensees should be encouraged to utilize such resource to its fullest potential. The Commission should reaffirm its tentative decision to authorize CMRS providers to utilize licensed spectrum to offer all types of fixed wireless services. The Commission however, also needs to reaffirm that any modification of its rules to authorize more flexible use by CMRS licensees will not modify the responsibility of the licensee to maintain control over their assigned spectrum and avoid harmful interference as specified in Parts 22 and 24 of the FCC's rules.⁶

I. The Commission Should Grant All CMRS Providers the Flexibility to Offer Broadly Defined Fixed Wireless Service, Including Wireless Local Loop.

The Commission notes that the current restrictions on the fixed use of channels in the PCS rules "could hinder carriers from quickly and economically using channel capacity to meet changing market demand."⁷ Thus, the Commission explains that it always intended that wireless local loop service be a part of "the family of services that meet our definition of PCS, whether implemented as a mobile or fixed service."⁸ The Commission acknowledges that the same rationale supports permitting SMR and cellular carriers to offer wireless local loop services on their licensed spectrums.⁹

⁶See, e.g. 47 C.F.R. §22.907; 47 C.F.R. §24.237.

⁷NPRM, para. 13.

⁸Id.

⁹See, NPRM, para. 16. In fact, any other conclusion would be in direct conflict with the Congressional intent of creating regulatory symmetry among similar mobile services, underlying the Omnibus Reconciliation Act of 1993. See, In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, CC Docket 93-252, Second Report and Order, para. 2 (Released March 7, 1994).

SBC agrees with the Commission's conclusion that all CMRS providers should be allowed to provide fixed wireless services defined in the broadest sense. SBC is concerned, however, that although the Commission proposes to broadly define the term "wireless local loop" as "the path between the subscriber and the first point of switching or aggregation of traffic," Commission comments about whether "other fixed services" are included in the definition make the term ambiguous and possibly meaningless in application.¹⁰ The purpose of a local loop, be it wireless or wireline, is to provide access to the public switched network, including access to those on the loop itself. The proposed definition of "wireless local loop" is an example of how the industry can become embroiled in a definitional morass. The NPRM, questions whether the definition of "wireless local loop" should vary based on the application or potential user wanting access.¹¹ The NPRM queries whether uses such as wireless Internet access, electronic fund transfers and remote monitoring should be included in the definition of "wireless local loop."¹² The industry need not fall into this regulatory and definitional morass if the Commission simply concludes that CMRS providers may offer fixed services without limiting definitions. The Commission's stated purpose is to have a definition sufficiently broad so that it is unnecessary to examine the mobile or fixed nature of each particular application.¹³ Attempting to limit the definition (and thus the ability to offer a service) by the type of use or reason for accessing the wireless network is directly contrary to such purpose. Further, as the Commission suspects, attempting to limit the ability of CMRS

¹⁰See, NPRM, paras. 6, 22.

¹¹See, NPRM, para. 22.

¹²Id.

¹³See, NPRM, para. 6.

providers to offer access to their networks or "wireless local loop" based on the type of use "will unduly restrict the ability of carriers to develop wireless networks that would otherwise meet the various needs of the consuming public."¹⁴ The Commission should clarify that its definition of "wireless local loop" is not limited by the customer's reason for wanting to access the public switched network and thus includes "other fixed services."

Quite simply, licensees should be allowed maximum flexibility to determine the most efficient use of the spectrum, especially as new spectrum becomes available. Similarly, licensees should be encouraged to allow the marketplace to determine the most efficient use of the spectrum. For example, a PCS licensee who acquired a 30 MHz license might find it economically viable to utilize 20 MHz of that spectrum to provide a mobile service and then lease capacity for the additional 10 MHz to incumbent local exchange carriers, alternate local exchange carriers or other new entrants to be utilized in the construction of competitive networks. This type of flexibility is in the public interest and should be encouraged by the Commission.

The Commission also questions whether there is a need for specific operational, interference or technical rules to permit the deployment of fixed wireless services.¹⁵ SBC believes that the current rules regarding operation and interference are adequate. Simply put, the wireless carrier must operate within its licensed spectrum in such a way that it does not interfere with other carriers operating within their licensed spectrum.¹⁶ Fixed wireless services should be developed and

¹⁴See, NPRM, para. 22.

¹⁵See, NPRM, para. 14-15, 17.

¹⁶See, 47 C.F.R. §22.907; 47 C.F.R. §24.237.

engineered so that they operate within their assigned spectrum and do not interfere with other carriers operating on their assigned spectrum.

II. Allowing Fixed Wireless Services Does Not Require a Change in Regulatory Treatment of CMRS Service.

Allowing CMRS providers to provide fixed wireless service does not require a change in the regulatory treatment of CMRS service. The Commission's proposal "to treat fixed wireless local loop services as an integral part of the CMRS services offered by a CMRS provider, so long as the carrier otherwise offers interconnected, for profit mobile service to the public on licensed CMRS spectrum as provided by the Communications Act" is correct and best serves the public interest.¹⁷ As the Commission notes, the offering of various "fixed" services via the wireless local loop adds value to the CMRS provider's mobile services by allowing customers the option of using fixed and mobile applications offered by a single provider. Attempting to segregate the offerings into differing regulatory schemes at this time is unnecessary and could delay the implementation of new innovative wireless services. Instead, the Commission should adopt its tentative proposal to treat the fixed wireless services, including wireless local loop services offered by a CMRS provider as part of the CMRS service.

III. Universal Service Issues Should be Addressed in the Separate Proceedings.

The Commission questions whether allowing CMRS providers to provide wireless local loop services requires an inquiry in this proceeding to determine the impact on Universal Service obligations because of the offering of services "similar" to wireline local exchange service.¹⁸

¹⁷See, NPRM, para. 20.

¹⁸See, NPRM, para. 21.

The Commission notes that it is examining universal service proceedings more broadly in separate proceedings and that its preference is to treat the universal service issues raised in this proceeding in the broader universal service dockets.¹⁹ SBC agrees with this conclusion. In addition, the new federal legislation requires the establishment of a Federal-State Joint-Board to review universal service requirements.²⁰ The new legislation provides that one principle which the Board and the Commission shall follow in determining policies for universal service is that "all providers of telecommunications services should make an equitable and non-discriminatory contribution to the preservation and advancement of universal service".²¹ Therefore, the universal service impact, if any, of allowing CMRS providers the flexibility to offer wireless local loop services should not be debated and decided in the vacuum of this docket. Rather, universal service concerns and potential contributions by CMRS providers should be addressed in the broader dockets mandated by the new legislation.

Conclusion

For the reasons stated herein the Commission should allow all CMRS providers the ability to offer fixed wireless services, including wireless local loop and clarify that such term is to be defined broadly without resort to the type of application or user accessing the network.


¹⁹Id.

²⁰Telecommunications Act of 1996, Sec. 254(a).

²¹Id. at Sec. 254(b)(4).

Respectfully submitted,

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Dated: March 1, 1996